

2013-1564

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SCA HYGIENE PRODUCTS AKTIEBOLAG
and SCA PERSONAL CARE, INC.,

Plaintiffs-Appellants,

v.

FIRST QUALITY BABY PRODUCTS, LLC,
FIRST QUALITY HYGIENIC, INC.,
FIRST QUALITY PRODUCTS, INC. and
FIRST QUALITY RETAIL SERVICES, LLC,

Defendants-Appellees.

Appeal from the United States District Court for the Western District of Kentucky
in Case No. 10-CV-0122, Chief Judge Joseph H. McKinley, Jr.

**UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE APPELLEES' BRIEF**

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First Quality Products, Inc., and
First Quality Retail Services, LLC*

Defendants-Appellees First Quality Baby Products, LLC, First Quality Hygienic, Inc., First Quality Products, Inc., and First Quality Retail Services, LLC (“First Quality”) respectfully file this unopposed motion to request a three week extension of time until December 16, 2013 for the filing of its Brief.

This is First Quality’s first request for an extension of time in this appeal. First Quality’s Brief is currently due on November 25, 2013. First Quality respectfully submits that there is good cause for the requested extension for the following reasons, as supported by the declaration of Kenneth P. George, First Quality’s counsel.

First Quality’s appellate counsel have been, and are engaged in, several other substantial patent-related matters, including separate matters on behalf of First Quality. As a result, First Quality’s counsel will be unable to prepare and file its Brief by the current due date of November 25, 2013.

In view of the above, First Quality requires the requested three-week extension in order to prepare and file its Brief.

Counsel for Plaintiffs-Appellants, SCA Hygiene Products Aktiebolag and SCA Personal Care, Inc. (“SCA”), do not oppose the requested extension of time. In an e-mail communication on November 8, 2013, Counsel for SCA consented to First Quality obtaining an extension of time to file its Brief until December 16, 2013, provided First Quality consented to SCA obtaining a two-week extension of time to file its Reply until January 16, 2014. First Quality so consents to a two-week extension to January 16, 2014 for Plaintiffs-Appellants’ Reply Brief.

A proposed order believed appropriate for entry by the Court for a three-week extension to December 16, 2013, is attached to this motion.

For the reasons set out herein, First Quality respectfully requests that the motion to extend time be granted.

Dated: November 12, 2013

Respectfully submitted,
AMSTER ROTHSTEIN & EBENSTEIN LLP

By: /s/ Kenneth P. George

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First Quality Retail Services, LLC*

CERTIFICATE OF INTEREST

Counsel for Defendants-Appellees, First Quality Baby Products, et. al., certifies the following:

1. The full name of every party or amicus curiae represented by us is:

First Quality Baby Products, LLC, First Quality Hygienic, Inc., First Quality Products, Inc., and First Quality Retail Services, LLC.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by us is:

None.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by us are:

None.

4. The names of all law firms and the partners or associates that appeared for the party or amicus curiae now represented by us in the trial court or agency or are expected to appear in this Court are:

In the Western District of Kentucky, First Quality Baby Products et al. were represented by Kenneth P. George, Ira E. Silfin, Charles R. Macedo, Michael J. Kasdan, Richard S. Mandaro, Jessica Capasso, and Addie A. Bendory of Amster Rothstein & Ebenstein LLP and Thomas P. O'Brien III and Cory J. Skolnick of Frost Brown Todd LLC.

On appeal before this court, First Quality Baby Products et al. are represented by Kenneth P. George, Charles R. Macedo, and Mark Berkowitz of Amster Rothstein & Ebenstein LLP.

Dated: November 12, 2013

Respectfully submitted,
AMSTER ROTHSTEIN & EBENSTEIN LLP

By: /s/ Kenneth P. George

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**DECLARATION OF KENNETH P. GEORGE IN SUPPORT OF
UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE APPELLEES' BRIEF**

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First Quality Baby Products, LLC,
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First Quality Products, Inc., and
First Quality Retail Services, LLC*

I, KENNETH P. GEORGE declare as follows:

1. I am one of the attorneys for Defendants First Quality Baby Products, LLC, First Quality Hygienic, Inc., First Quality Products, Inc. and First Quality Retail Services, LLC (collectively, "First Quality") in the above referenced action.

2. I make this Declaration in support of First Quality's unopposed motion to request a three-week extension of time until December 16, 2013 for the filing of its Brief.

3. This is First Quality's first request for an extension of time in this appeal.

4. First Quality's Brief is currently due on November 25, 2013. First Quality's appellate counsel have been and are engaged in several other substantial patent-related matters, including separate matters on behalf of First Quality. As a result, First Quality's counsel will be unable to prepare and file its Brief by the current due date of November 25, 2013.

5. In view of the above, First Quality requires the requested three-week extension.

6. Counsel for Plaintiffs-Appellants, SCA Hygiene Products Aktiebolag and SCA Personal Care, Inc. ("SCA"), do not oppose the requested extension of time. In an email communication on November 8, 2013, Counsel for SCA consented to First Quality obtaining an extension of time to file its Brief until December 16, 2013, provided First Quality consented to SCA obtaining a two-week extension of time to file its Reply until January 16, 2014. First Quality so consents to a two-week extension to January 16, 2014 for Plaintiffs-Appellants' Reply.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: November 12, 2013
New York, NY

By: /s/ Kenneth P. George

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PROPOSED ORDER

UPON CONSIDERATION of the Motion of Defendants-Appellees First Quality Baby Products, LLC, First Quality Hygienic, Inc., First Quality Products, Inc., and First Quality Retail Services, LLC ("First Quality") for an Extension of Time to File its Brief,

it is ORDERED that:

The Motion is GRANTED, and the time for filing of Appellees' Brief shall be extended three weeks, up to and including December 16, 2013. Furthermore, the time for filing a Reply Brief by Plaintiffs-Appellants, SCA Hygiene Products Aktiebolag and SCA Personal Care, Inc., will be extended two weeks, up to and including January 16, 2014.

FOR THE COURT:

Dated: _____

**United States Court of Appeals
for the Federal Circuit**

SCA Hygiene Products v. First Quality Baby Products, No. 2013-1564

CERTIFICATE OF SERVICE

I, Robyn Cocho, being duly sworn according to law and being over the age of 18, upon my oath depose and say that:

Counsel Press was retained by AMSTER ROSTHSTEIN & EBENSTEIN LLP, Attorneys for Appellees to print this document. I am an employee of Counsel Press.

On **November 12, 2013**, Counsel for Appellees has authorized me to electronically file the foregoing **UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE APPELLEES' BRIEF with Declaration of Kenneth P. George in Support** with the Clerk of Court using the CM/ECF System, which will serve via e-mail notice of such filing to any of the following counsel registered as CM/ECF users:

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A copy will also be mailed to the above counsel on this date.

November 12, 2013

/s/Robyn Cocho
Counsel Press